

PRICE FOUR CENTS.

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State here that the vessel was sent there by our Government, and the Rebel Captain in charge over the prisoners took it himself; this captain was Col. Gilbo, who was in the interior of the prison; Col. Gilbo commanded the post.

Q. Was the quality of the provisions served out to you such that a man would eat unless he was in a starving condition? A. Yes, sir; I would not think of such a thing, but a man in danger of starvation might eat them.

Q. Did you think it possible to sustain life for any great length of time on such food? A. No, not for a long time; but I was not a soldier, and I was not in a combat; while, up to this day, I left which was the 24th of March, 1863, men died and died there. That was the number taken from the books by myself.

Q. Judge Holt? What proportion of those deaths, in your judgment, and the judgment of other prisoners, occurred from starvation and in consequence of the lack of food? A. I think that about 90 per cent of the deaths were from lack of food. I think that the revolver was good enough security so I loaned him the money.

Q. A revolver was shown to the witness, which he recognized as the one which he had seen when he observed it, but had the appearance of being fired once.

EXAMINATION OF MARY SIMMS (COLORED).
By Assistant Judge-Advocate Briggsman.—Q. State whether you know any of the prisoners? A. Knows, but one (Dr. Samuel Mudd).

Q. State whether you lived with him, and when you slept. A. I was his slave, and lived with him from about a month before last Christmas; I was free then.

Q. When you lived with the prisoner, did you hear him say anything about President Lincoln? A. I heard him say that President Lincoln was here, he stole here in the night, dress in women's

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over one-half; the food which they received was the cause of their sickness, and after they got sick they did not receive any more of the better food.

By the Court—Q. Was there any medical treatment given to those suffering prisoners? *A.* Very little indeed; nothing of any account.

TESTIMONY OF E. W. ROSS.

By Judge Abner Holl—Q. State whether or not you have been in the service of the Rebel Government? *A.* I never was in the army; I was a clerk at Libby Prison.

Q. Were you a clerk there in the month of March, 1864? *A.* Yes; about that time Gen. Kilpatrick was making a raid in the vicinity of Richmond.

Q. How long did you stay at Libby Prison having at that time been hired by the Confederate authorities? *A.* I never saw the powder, but I saw the place where they said the powder was buried. I was not there when it was buried.

Q. How long did you stay at Libby Prison, and caught him they would have killed him.

Q. State who visited him? *A.* A man by the name of Surratt visited him, also a man named Waller had been there.

Q. Who called this man Surratt? *A.* Dr. Sam. Mudd; and Dr. Sam. Mudd's wife, called him Surratt.

Q. State the appearance of the man Surratt. *A.* He was a tall man, about six feet high, tall, not very short; the hair was rather light, at least not black.

Q. State where he slept when at Dr. Mudd's house? *A.* All of us slept out in the woods.

Q. How long did you stay there when they slept in the woods? *A.* There was Capt. White from Tennessee, Ben. Gwin, Andrew Gwin and George Gwin.

Q. How did they get victims to eat with you? *A.* They would go out into the woods and into the house with the men to get his meals, he put us out at the door to watch if anybody come along, then at other times he

Q. On the morning one of the colored men at the prison told me that some powder had been put into the building; that he went to look all over the place, but he did not know whether the powder was there, and I told him I did not know certainly; I saw the fuse in the office.

Q. Did you ever see the place where the powder was placed, or did you see the men who were there? Did they place powder over it to keep persons from approaching the place?

Q. Was the fuse kept in the office? A. Yes, sir. Major Turner had it in charge; it was an eight second fuse.

Q. Did he state to you that the powder was there? A. Yes, sir, and also said that this fuse was to set it off.

Q. In what event was this explosion to take place? A. In case the raiders got into the city they would set it off.

Q. And the prisoners? A. That

Q. Would set the rioters down and then stand behind a tree and watch when the Rebels would come out and get them.

Q. Did you ever see Surratt in the house with Mudd at any other time than when he was eating? A. Yes, sir; when they wanted to talk they always went apart by themselves.

Q. Where did they go to? A. Up stairs, in a room.

Q. State how you know that the men who came there were Rebels? A. They would often bring letters from Virginia.

Q. To whom did they bring the letters? A. To Dr. Sam Mudd.

Q. State whether he would give them letters to take back? A. Yes, sir, and clothes and socks.

Q. Did you ever see any of these men dressed in A. Some of them, whom they called officers and soldiers, would have epaulettes on their shoulders and

must have been their intention.

Q. How long did this powder remain there? A. In the house for some time.

Q. Do you know whether the fact of its removal was kept a secret from the prisoners themselves? A. I do not.

By the Court.—Q. Did you understand by whose authority the powder was put there? A. It was done when Winler was Secretary of War.

Q. State whether or not Major Turner, the keeper of the prison, did not act under the authority of the War Department? A. He never told me that he was acting under any orders in the matter or even that the powder was there.

Q. Was it the subordinate of the War Department? A. Yes, sir.

EXAMINATION OF JOHN LATOUCHE.
By Judge Associate Holt.—Q. State whether or not you were present at the trial of the prisoners at Richmond, Va., in 1862? A. Yes, sir.

Q. Did you hear Dr. Sam Mudd say anything about sending his brother to Richmond? A. I heard him say something about sending my brother to Richmond; when he shut my brother up he said he would have something to do for him in Richmond.

A. I did not say he said he would have for him to do it.

Q. Was your brother his slave? A. Yes, sir.

The cross-examination of this witness, which was conducted by Mr. Ewing, brought out the points of interest in the case. As regards to the prisoner, Mudd's remark "That prisoner Lincoln would have been killed if caught," the witness testified that the remark was made in 1862, six years ago. The witness said that he was the only one of the visitors who slept in the house; the others—Surratt among the number—slept in the grounds on beds made upon the ground covered with straw.

At the close of the trial, the court adjourned until the next day, when the court will hear the case.

Q. State whether or not you were on duty at Libby Prison in March, 1864? A. I had been detailed there and was on duty at that place at that time.

Q. State whether or not you were on duty, concerning the mining of Libby Prison about that time by the Confederate authorities? A. Major Turner, the keeper of the prison, told me one day that he had been told by a man named John Windler; I believe he had no relief that day; when he returned he told me that Gen. Windler himself had been to see the Secretary of War, and that they were going to put powder into the building.

Q. How many times did you see him there; it was in 20-pound boxes, which were contained in boxes, and altogether amounted to I suppose 100 pounds; and the powder was put down there; the ground was then covered over.

Q. Now, I am assuming that you were in the prison building and placed him over this powder, so that no accident might occur; the next day Major Turner showed us all a fuse in the office; it was a long fuse, and was made of cotton, and was about 200 feet long; it was put in place in May, when the prisoners were all removed from the prison. Gen. Winder then read a note to the officers with directions to take the powder primarily and preferably as possible; I do not remember the exact words.

Q. State whether you heard in what event this powder was to be set off? A. I did not hear at that time; I heard it set off about a year or so after the raiders coming into Richmond; he would blow up the place.

Q. Meaning the prison building and the prisoners in it? A. I suppose so.

EXAMINATION OF GEORGE R. M'GEE.

By Judge Advocate Hall-Q. State whether you know of any person who was in the prison building at the time when they did get their victims? A. I do not know.

Q. Did you see any victims being taken to them? A. Saw victims going that way often enough; I saw my sister, John Smith, taking them.

Q. How were those men dressed? A. Some in gray and some black clothes.

Q. Was he ever seen beside yourself when Dr. Mudd said he was going to send you to Richmond? A. No, person.

EXAMINATION OF SYLVESTER BOLIN.

By Judge Advocate Hall-Q. Did you ever hear of Dr. Samuel A. Mudd? A. I lived with his father about a quarter of a mile off.

Q. State whether you heard him say that he was going to send anybody to Richmond? A. I heard him say that he was going to send Eliza and me, and several others to Richmond.

Q. Was he a soldier or not in the military service of the Rebels.

A. Being a subject. The grounds of my objection, is that Arnold is here on trial for having been engaged in a conspiracy to restrain the military service of the Government for the purpose of making him competent for the Government to show, if such be the fact, that before he entered into the conspiracy he was in the military service of the Confederate States. He is on trial for having taken the oath of allegiance and broken it; for they may see fit to follow this up by a statement of that kind, as has been done in the case of O'Leary. It is not necessary to go into details, but it is clearly in the charge and specifications, and it is not competent, it seems to me clearly not competent to attempt to aggravate the offense with the fact that he was a soldier in the military service of the Rebels.

Q. Did the conversation take place? A. Down by my old master's gate, in the outfield, where the horses were kept.

THE TESTIMONY OF F. W. WASHINGTON (COLORED).

By the Court. Do you know the prisoner, Dr. Samuel A. Mudd? A. I do.

Q. Were you his slave? A. Yes.

Q. When did you leave his house? A. In October 1862.

Q. Did you when you lived with Dr. Mudd, you heard him say anything about President Lincoln? A. I heard him say he would not keep his seat long; I heard him say that he would not keep his seat long.

Q. Was anybody talking with him at that time? A. There was a group of gentlemen in the house; I do not know who they were.

Q. And where did they stand?

in showing that he has been unfaithful to the Government in other respects and at other times. The Government is not to be introduced for any other purpose than that of aggravating his alleged acts in connection with this conspiracy. That course of testimony would be in effect allowing the prosecution to introduce evidence of the accused's bad character for the purpose of the accusation, and that is a right that is reserved to the accused always, and is never allowed to the prosecution. More than that, it would allow the prosecution to go what we call the "back door" of the character of the accused, and that is the point of character. That is to introduce specific acts from which his character may be inferred.

Judge Associate Hall.—I will make only single reference to the testimony in this case has proven what I believe to be sufficiently demonstrative how kindred to each other are the crimes of treason against the Government and the crime of perjury.

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with duty as a most probable result. It is to that view and to that object that the testimony is offered.

A general Judge-Advocate Bingham referred to Stone's criminal evidence, page 85 or 87, as authority for the rule of law, that when the interest, with which an act is done is initial, utterances of the prisoner not intended to be true, may be admitted in evidence, although in the charge and specifications, that the prisoner Arnold, with others, engaged in a conspiracy to murder the President of the United States and others, with intent to defraud the Government of the United States. The object here now was to establish that intent thus put in issue, by proving that the prisoner himself was part of the Rebellion.

Mr. Kwing said that he would defer speaking upon the general principle involved and content himself

By Judge Bingham—Q. State whether you lived with the prisoner, Dr. Samuel A. Mudd? A. Yes, sir; I was his slave; I left his house the Friday before last, Oct. 10.

Q. State if at any time while you stayed at Dr. Mudd's house you saw any men there? A. I saw two or three hours last Summer.

Q. Where did the men stay? A. Sometimes in the house, and then down by the spring, in the bushes; they slept down among the bushes.

Q. Did you see the bad down there? A. Yes; it was fixed under a pine tree, with a blanket and rails at the head.

Q. Where did they get their victuals? A. From Dr. Mudd.

See Eighth Page.